

PATENT
Customer No. 22,852
Application No. 10/653,353
Attorney Docket No. 8350.2341

REMARKS

In the Office Action, the Examiner rejected claims 1-21 under 35 U.S.C. § 103(a) as being unpatentable over Henderson et al. (U.S. Patent No. 6,047,227) in view of Clegg (U.S. Patent No. 4,807,131).

Regarding Claim Rejections Under 35 U.S.C. § 103

Applicants respectfully traverse the Examiner's rejection of claims 1-21 under 35 U.S.C. § 103(a) as being unpatentable over Henderson et al. in view of Clegg. In order to establish a prima facie case of obviousness, three basic criteria must be met. First, the prior art reference (or references when combined) must teach or suggest all the claim elements. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Third, there must be a reasonable expectation of success. See M.P.E.P. § 2143.

Independent claim 1 recites a method including at least, "monitoring a position of a ground engaging tool operatively connected to the work machine; identifying a current elevation of the ground engaging tool; and updating the display of the elevation segment corresponding to the location of the ground engaging tool." Neither Henderson et al. nor Clegg discloses or suggests at least these recitations of claim 1 quoted above.

Henderson et al. discloses a method and apparatus for operating geography altering machinery relative to a work site. On page 2 of the Office Action, the Examiner asserts that "Henderson discloses . . . monitoring a position of a ground engaging tool and identifying elevation of the tool (col. 5, lines 39-51), and continuously updating the

display when there is a change in the actual surface elevation due to engagement with the tool (col. 5, line 63- col. 6, line 6)." Applicants submit that Henderson et al. does not disclose what the Office Action contends. The cited portions of Henderson et al. recite, "database 320 also generates a graphic icon of the machine superimposed on the actual site model on display 322 corresponding to the actual position and direction of the machine on the site . . . And, as the operator moves the machine over the site the dynamic database 320 continues to read and manipulate incoming position information from module 304 to dynamically update both the machine's position relative to the site, the path of the machine over the site, and any change in actual site geography effected by the machine's passage." Henderson et al., column 5, lines 49-51 and lines 63-67, column 6, lines 1-2. Generating a graphic icon of the "machine" on the display 322 and updating any site geography effected by the machine's passage over the site as disclosed in Henderson et al. is not "monitoring a position of a ground engaging tool operatively connected to the work machine; identifying a current elevation of the ground engaging tool; and updating the display of the elevation segment corresponding to the location of the ground engaging tool," as recited in independent claim 1.

Clegg also does not disclose the method of independent claim 1 including "monitoring a position of a ground engaging tool operatively connected to the work machine; identifying a current elevation of the ground engaging tool; and updating the display of the elevation segment corresponding to the location of the ground engaging tool." For at least this reason, independent claim 1 should be allowed, along with claims 2-7 that depend from independent claim 1.

Even if Henderson et al. could be interpreted as disclosing, “monitoring a position of a ground engaging tool . . . and updating the display of the elevation segment corresponding to the location of the ground engaging tool,” which Applicants do not concede, it still does not disclose or suggest other elements in independent claim 1. For example, Henderson et al. also does not disclose or suggest displaying a terrain map where “the display of the terrain map including a plurality of elevation segments, each of the plurality of elevation segments having an actual surface elevation value,” as recited in independent claim 1. In fact, on page 2 of the Office Action, the Examiner concedes that “Henderson discloses a method and device . . . except for specifically stating that the terrain map includes a plurality of elevation segments.”

The Examiner cites Clegg to cure the deficiencies in Henderson et al. On page 2 of the Office Action, the Examiner asserts that “Clegg discloses a display device showing work tool with respect to a terrain map, wherein the map includes plural terrain elevations (FIG. 4).” However, regarding FIG. 4, Clegg states, “FIG. 4 is a vertical profile of a portion of the tract of FIG. 3 taken along the street line indicated by the lines 4--4 of FIG. 3. The existing profile of the tract, before grading, is indicated by the contour lines showing elevations at 191, 192, 193, 194, and 195. These contour lines are, simply for illustration purposes, suggestive of a contour,” Clegg, column 13, lines 53-60. According to Clegg, FIG. 4 is not a display at all; it is simply an illustration of the profile of a tract of land. In fact, Clegg states that the display is actually reference number 130a in FIG. 2. Clegg, column 15, lines 58-59. Clegg describes the display 130a as having “two lines 132 and 134, as depicted in FIG. 2. The line 132 is the target

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elevation, and the line 134 is the actual elevation of the grading blade." Clegg, column 15, lines 59-63. Thus, the elements 132 and 134 in FIG. 2 of Clegg are lines, and are not "a plurality of elevation segments, each of the plurality of elevation segments having an actual surface elevation value for a discrete area of the geographic location," as recited by independent claim 1.

Therefore, neither Henderson et al. nor Clegg, taken alone or in combination, discloses or suggests all elements of Applicants' invention, as recited by independent claim 1. Independent claim 1, and its dependent claims 2-7, are therefore allowable for at least the reasons stated above. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-7.

Independent claim 8, while of different scope, includes similar language as in independent claim 1 discussed above. Claim 8, and its dependent claims 9-13, are therefore also allowable for at least the same reasons stated above with respect to independent claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 8-13.

Independent claim 14, while of different scope, includes similar language as in independent claim 1 discussed above. Claim 14, and its dependent claims 15-20, are therefore also allowable for at least the same reasons stated above with respect to independent claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 14-20.

Independent claim 21, while of different scope, includes similar language as in independent claim 1 discussed above. Claim 21 is therefore also allowable for at least

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the same reasons stated above with respect to claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 21.

The Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.

In discussing the specification, claims, and drawings in this Reply, it is to be understood that Applicants are in no way intending to limit the scope of the claims to an exemplary embodiment described in the specification or abstract and/or shown in the drawings. Rather, Applicants are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

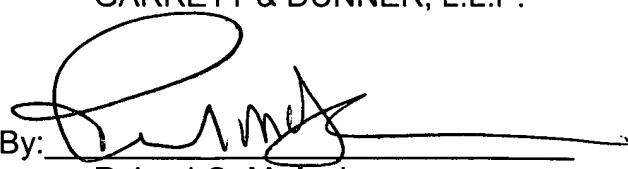
In view of the foregoing remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account no. 06-0916.

Respectfully submitted,

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